

“Order for payment” procedures - Netherlands

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1 Existence of an order for payment procedure

A distinction can be made between the European order for payment procedure and procedures relating to debt-collection and other claims within the Netherlands. For information on the latter please refer to ‘Small claims’.

The European order for payment procedure (Regulation (EC) No 1896/2006, which entered into force on 12 December 2008), hereinafter ‘EOP’, allows uncontested, cross-border claims in civil and commercial matters to be collected by means of a uniform procedure based on standard forms (<http://www.overheid.nl>).

A cross-border case is a dispute in which at least one of the parties is domiciled or habitually resident in a Member State other than the Member State of the court seised. The European order for payment procedure has been established for the collection of pecuniary claims for a specific amount that have fallen due at the time when the application for a European order for payment is submitted.

The Regulation applies between all EU countries, with the exception of Denmark. The Netherlands introduced the EOP Regulation Implementing Act (*Uitvoeringswet (EBB-Vo)*) of 29 May 2009 to implement the European order for payment procedure in the Netherlands.

The Netherlands does not have a uniform procedure for the collection of uncontested, non-cross-border pecuniary claims. The order for payment was abolished at the end of 1991 with the introduction of the procedure before the cantonal court. Summons proceedings are required for a party to assert rights against a reluctant debtor in such cases. See also 'Small claims' and 'How to proceed?'

The European order for payment procedure has been established for claims in excess of €2 000.

Throughout the procedure the application for a European order for payment is made in writing using standard forms. These forms are available in all official languages under [Dynamic forms](https://e-justice.europa.eu) on the European e-Justice Portal (<https://e-justice.europa.eu>).

In the Netherlands the District Court (*Rechtbank*) of The Hague has been designated as the competent court for dealing with applications under the European order for payment procedure. The Netherlands has opted only to accept forms presented in Dutch for the purposes of this procedure. The court dealing with an application for a European order for payment will charge court fees. For further information on the applicable rate please refer to <http://www.rechtspraak.nl/>.

EOP application

An application for a European order for payment is submitted to the District Court of The Hague using [application form A](https://e-justice.europa.eu) (<https://e-justice.europa.eu>).

If application form A is incomplete, the court will use form B to give the claimant the opportunity to complete or rectify the application within a certain period.

If the application satisfies only some of the conditions set, the court will use form C to propose modifications to the original application to the claimant. The claimant must respond to this proposal within the period set by the court. If the claimant accepts the proposal, the court will issue the European order for payment for the part of the application that is accepted. If the claimant wishes, he or she may try to collect the remaining portion of the claim under national law. If the claimant fails to respond within the period set by the court or refuses to accept the proposed modifications to his or her original application, the court will reject the original application in its entirety. Provided that the application form satisfies all the requirements, the court will normally issue a European order for payment within 30 days (using form E).

Opposition to the EOP

The court will notify the defendant of the European order for payment by sending it by registered post with acknowledgement of receipt or by means of a bailiff's notification. The defendant will be made aware that the following options are available:

- to pay the amount indicated in the order for payment to the claimant or
- within 30 days of the order being served on or notified to the defendant, to lodge a statement of opposition using standard form F.

If a statement of opposition is lodged, the European order for payment procedure is terminated. The procedure then continues in accordance with the rules of national procedural law (see also section 1.7). If the defendant fails to lodge a statement of opposition within the set time limit, the court of origin will declare the European order for payment enforceable (using standard form G) and send this declaration to the claimant.

An order for payment that has been declared enforceable in the Member State of origin will be recognised in every Member State and may be enforced in every Member State without the need for a declaration of enforceability.

1.1 Scope of procedure

A European order for payment can be obtained for pecuniary claims in civil or commercial matters that have fallen due and have the character of 'cross-border claims' (see also section 1.1.1). A cross-border claim exists if the creditor and debtor are domiciled in different EU Member States.

1.1.1 What types of claims are eligible (e.g. only pecuniary claims, only contractual claims etc.)?

The material scope of the European order for payment is restricted to civil and commercial matters. The following are excluded from the scope of the European order for payment:

- revenue matters;
- customs matters;
- administrative matters;

- matters concerning the liability of the state;
- matters in the area of insolvency law, matrimonial property law, inheritance law and social security; and
- matters relating to non-contractual obligations (in particular on the basis of unlawful acts), unless they are the subject of an agreement between the parties or there has been an admission of debt or they relate to liquidated debts arising from joint ownership of property.

1.1.2 Is there an upper limit regarding the value of the claim?

There is no upper limit for the European order for payment procedure or for internal debt-collection procedures.

1.1.3 Is the use of that procedure optional or obligatory?

The European order for payment procedure is optional.

1.1.4 Is the procedure available if the defendant lives in another Member State or in a third country?

If the judgment is intended to be executed in a country outside the EU, whether the order for payment procedure can be implemented and, if so, whether the European order for payment can be enforced will depend on the private international law of that country. In many cases an enforcement order (exequatur) will be required.

1.2 Competent court

In the Netherlands the District Court of The Hague has been designated as the competent court for dealing with applications under the European order for payment procedure. The Netherlands has opted only to accept forms presented in Dutch for the purposes of this procedure. The claimant will be required to pay court fees when the application for a European order for payment is submitted. For the applicable rate please refer to <http://www.rechtspraak.nl/>.

1.3 Formal requirements

The European order for payment must be issued as quickly as possible and in any case within 30 days of the application being submitted.

An application for a European order for payment is submitted using [standard form A \(https://e-justice.europa.eu\)](https://e-justice.europa.eu). The Netherlands has opted only to accept forms presented in Dutch.

The application form may be submitted in paper form or using any other means of communication accepted by the court.

On the basis of Article 7(2) of the EOP Regulation the application must state:

- (a) the details of the parties and of the court to which the application is made;
- (b) the amount of the claim;
- (c) if interest is demanded: the interest rate and interest period;
- (d) the cause of the action, including a description of the circumstances invoked as the basis of the claim;
- (e) a description of evidence;
- (f) the grounds for jurisdiction; and
- (g) the cross-border nature of the case.

In a European order for payment procedure the claimant must declare that he or she has completed form A truthfully and in good faith. The European order for payment is issued solely on the basis of the information provided by the claimant and is not verified by the court.

The European order for payment is notified to the defendant by registered post with acknowledgement of receipt or by means of a bailiff's notification. The act of returning the acknowledgement of receipt to the court registry allows the court to determine whether the European order for payment can be declared provisionally enforceable. If the order is served by bailiff's notification, the court will engage a bailiff for that purpose.

1.3.1 Is the use of a standardised form obligatory? (if yes, where can that form be obtained?)

Yes, the use of standard forms is obligatory for a European order for payment procedure. These can be downloaded at <https://e-justice.europa.eu>.

1.3.2 Is representation by a lawyer required?

No, for the European order for payment procedure representation by a lawyer is not required and the parties do not need to appear before the court. In the case of a debt-collection procedure within the Netherlands, whether representation by a lawyer is required depends on the nature of the procedure and the level of the claim. See also 'Small claims' and 'Bringing a case to court'.

1.3.3 In how much detail do I have to describe the reason for the claim?

The reason for the claim, including a description of the evidence on which the claim is based, must be included on standard form A of the European order for payment procedure, but a more detailed description is not required.

1.3.4 Is it necessary to present written evidence of the claim at issue? If yes, which documents are admissible as proof?

In principle, it is not necessary to provide further substantiation of the claim within the framework of a European order for payment procedure. The available evidence should be described on form A.

1.4 Rejection of application

The application will be rejected if it does not satisfy the requirements set. If the application for a European order for payment satisfies only some of the conditions set, the claimant will be given the opportunity to complete or rectify it or to accept the modifications proposed by the court. If the claimant fails to send back his or her response within the time limit set by the court or refuses to accept the court's proposal, the application for a European order for payment will be rejected in its entirety. There is no right of appeal against the rejection of the application. The claimant may, however, still assert his or her claim by submitting another application for a European order for payment or using another procedure provided for by the law of a Member State.

1.5 Appeal

There is no right of appeal. However, the defendant has the option of requesting a review. For further information please see section 1.8. In the case of a procedure within the Netherlands a right of appeal will, in principle, be available.

1.6 Statement of opposition

The defendant may lodge a statement of opposition within 30 days of service or notification of the order for payment. He or she must lodge this objection using standard form F (<https://e-justice.europa.eu>) and is only required to contest the claim. No further substantiation is required.

1.7 Effect of statement of opposition

If the defendant lodges a statement of opposition in due time (within 30 days) using standard form F, the European order for payment procedure is terminated. The procedure is then continued in ordinary substantive proceedings, unless the claimant opposes a transfer to ordinary civil proceedings in an appendix to the application for a European order for payment. The claimant may also do this at a later stage, but must do so before the order for payment is issued (Article 7(4) of the EOP Regulation).

1.8 Effect of lack of statement of opposition

If the defendant fails to lodge a statement of opposition within the 30day period, the court will use standard form G to declare the European order for payment enforceable of its own motion and will send the enforceable European order for payment to the claimant. The European order for payment that has been declared enforceable will be enforceable in any Member State without the need for a declaration of enforceability. Article 9 of the EOP Regulation Implementing Act offers the defendant the opportunity to lodge an application for a review (see also section 1.8.2).

1.8.1 What needs to be done in order to obtain an enforceable decision?

The enforcement of a European order for payment is governed by the national law of the Member State of enforcement, unless the EOP Regulation stipulates otherwise. A copy of the European order for payment, as declared enforceable by the court of origin, must be provided to the court or enforcement authority. This document must satisfy the conditions necessary to establish its authenticity. A translation of the European order for payment into Dutch must also be provided.

During the enforcement phase enforcement may only be refused upon application by the defendant. Such refusal is possible if the European order for payment is irreconcilable with an earlier decision or order previously given in any Member State or in a third country. This earlier decision (or order) must involve the same cause of action and must fulfil the conditions necessary in the Member State of enforcement and it must not have been possible to raise the irreconcilability as an objection in the court proceedings in the Member State of origin.

Enforcement will be refused if the defendant has already paid the amount awarded in the European order for payment. Under no circumstances will the European order for payment be reviewed as to its substance by the court.

1.8.2 Is this decision final or is there still a possibility for the defendant to appeal against that decision?

The European order for payment is final, unless the defendant applies for a review.

This possibility is provided for in Article 9 of the EOP Regulation Implementing Act. This means that, under certain circumstances, the defendant may apply to the court of origin for a review of the European order for payment, even after the 30day time limit for lodging a statement of opposition has expired. This application must be filed within 4 weeks of the order for payment being notified to the defendant, of the exceptional circumstances that prevented an objection ceasing to apply or of the defendant becoming aware that the European order for payment was clearly wrongly issued.

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